



North Carolina Department of Commerce

James G. Martin, Governor

Claude L. Pope, Secretary

July 6, 1988

AO 88-003

Mr. K. D. Kennedy, Jr.
Chairman
North Carolina Board of Ethics
C/O Millie Donavant, Administrative Assistant
116 West Jones Street
Raleigh, North Carolina 27603-8003

RE: Request for Further Advisory Opinion
Felix Sabates, Public Member of the
North Carolina Banking Commission

Dear Mr. Kennedy:

Thank you for the prompt response to our letter of June 13 regarding Mr. Felix Sabates. We too agree that Mr. Sabates should not participate in deliberations or vote on a issue regarding a bank in which his wife or children hold stock. However, our specific question was not addressed and we must therefore ask the Board to reexamine this issue.

Even as a public (non-banking) member of the Banking Commission, Mr. Sabates may hold up to 1/2 of one percent of the capital stock of a regulated financial institution without being considered as having a "financial interest". If he owns more than a 1/2 of one percent interest then, as a public member, he would be precluded from holding a seat on the Commission. Our specific concern is "whether ownership of bank stock by Mr. Sabates' wife and children (dependent or independent) would in any manner be attributed to him for the purposes of determining his ownership, i.e. financial interest, in a regulated financial institution." His specific concern is whether stock owned by his wife and children would be attributed to him, which if combined with his interest, would put him over the maximum 1/2% permitted by statute.

Mr. K. D. Kennedy, Jr.

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July 6, 1988

We would greatly appreciate the Board addressing this issue by way of an advisory opinion.

Again, thank you for your attention to this matter.

Sincerely,

McNeill Chestnut

General Counsel

cc: Mr. Sabates

NORTH CAROLINA BOARD OF ETHICS

116 WEST JONES Street
RALEIGH 276038003
(919) 733-5103

K. D. KENNEDY, Jr.
CHAIRMAN

June 28, 1988

Mr. L. McNeil Chestnut
General Counsel
Office of Commissioner of Banks
Post Office Box 2951?_
Raleigh, North Carolina 27626-0512

Regarding: Request for Individual Advisory Opinion
Felix Sabates, Public Member of the NC
Banking Commission

Dear Mr. Chestnut:

The Board of Ethics has considered Mr. Sabates' request as mentioned in your letter dated June 13, 1988.

As a member of the Banking Commission, Mr. Sabates would have the potential for conflict of interest if his wife or minor children purchased stock in a bank which is subject to regulation by the Banking Commission.

Therefore, Mr. Sabates must exercise caution. to avoid even the appearance of conflict of interest. He should place the potential for conflict of interest on the public record of the Banking Commission. He should not act in any matter affecting the bank.

Sincerely,

K. D. Kennedy, Jr.
Chairman

Cc: Mr. Sabates



North Carolina Department of Commerce

James G. Martin, Governor

Claude I. Pope, Secretary

June 13, 1988

Ms. Millie Donavant
Administrative Assistant
North Carolina Board of Ethics
116 West Jones Street
Raleigh, North Carolina 27611

RE: Request for Individual Advisory Opinion
Felix Sabates

Dear Ms. Donavant:

On behalf of Felix Sabates we ask that the North Carolina Board of Ethics, pursuant to its Rule .0500 etc. seq., render an opinion on the facts hereinafter set out.

Mr. Sabates was appointed as a public member of the North Carolina Banking Commission under authority of G.S. 53-42 on April 18, 1985. His term will expire April 1, 1989. As a public member, Mr. Sabates may not "...have any financial interest in a regulated financial institution other than as a result of being a depositor or borrower." However, ownership of not more than one-half of one percent of the capital stock of a financial institution is not considered a financial interest. Mr. Sabates' specific concern is whether or not stock which may be purchased by his wife and adult children in a bank which is subject to regulation by this Commission would in any manner be attributed to Mr. Sabates therefore putting him above the one-half of one percent ownership limitation set by statute.

Ms. Millie Donavant

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June 13, 1988

We would appreciate the Board of Ethics addressing this issue by way of an individual advisory opinion. If you need additional information or if we may be of any further assistance whatsoever, then please do not hesitate to contact us accordingly. For your information Mr. Sabates' address and telephone number are set out below:

Mr. Felix S. Sabates
Member, State Banking Commission
800 East Boulevard
Charlotte, North Carolina 28203
(704) 372-952_7 (Office)
(704) 542-1708 (Home)

Sincerely

L. McNeil. Chestnut
General Counsel